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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/612,769	CHE ET AL.
		Examiner	Art Unit
		Dennis Myint	2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE __3__ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *11 June 2007*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-6, 13 and 16-19* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-2, 3-6, 13 and 16-19* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *01 July 2003* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some *   c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June

11, 2007 has been entered.

2.   The amendment filed on June 11, 2007 has been received and entered. Claims

1-2, 4-6, 13 and 16-19 are pending in this application. Claims 1 and 13 are independent

claims. In the Amendment filed on June 11, 2007, Claims 1 and 13 were amended.

Claims 3 and 14 were cancelled.

Response to Arguments

3.   Applicant's arguments filed on June 11, 2007 have been considered but are not

persuasive.

Referring to the amendment made to claim, Applicant argued that *Claim 1 is*

allowable as Barrick, Chen and Dutta either alone or in any combination, do not teach or

suggest each and every element the amended claim 1. For example, claim 1 recites in

part: A method for assembling timing data for each layer in a multi-layer server

environment, comprising: storing the times of generation, arrival times, departure times,

and the time of display in the hidden fields in the HTML based response in a database

within a request-response cycle corresponding to the second HTML based request. .

(Applicant's Argument, Page 6 Paragraph 3).

In response, Applicant is pointed out that Barrick in view of Chen exactly teaches

said limitation as follows: "*storing the times of generation, arrival times, departure times,*

and the time of display in the hidden fields in the HTML based response in a database

within a request-response cycle corresponding to the second HTML based request"

(Barrick repeatedly teaches storing request-response results in his specification. In

Column 1 Lines 35-44, Barrick recites *a network of special machines that are*

programmed to connect to different web sites as clients and evaluate the performance

of the connection. The special machines that make up the network can then store or

report their connection results; Barrick Column 2 Lines 10-18, i.e., *The data is sent*

from the user to a relay server that preferably combines the performance data with

geographical information relating to the user. The data can then be combined with

data obtained from other users and stored in a central database for processing;

Barrick Column 11 Lines 1-6, i.e., *Download time, or any other performance parameter*

that is desired may be measured using an agent that monitors information as it is

transmitted between parties. In one embodiment, the network is the Internet and the

information is transmitted in the form of Web pages. Results are preferably sent to a

relay server for formatting before being stored in a database server. In some

embodiments, results are sent directly to a database server; also note Column 5 Line 1-

10 and Column 10 Line 52-58 of Barrick reference; in addition, Barrick teaches the

storing of the arrival times and departure times in the hidden data fields in the second

HTML based response in a database (Barrick Column 4 Line 66 through Column 5 Line

12, i.e., *database server 112;* Barrick, Column 5 Line 1-10 and Column 10 Line 52-58);

and Barrick, Column 4, Line 41-65; Barrick, Column 9 Line 1-10 *Delta Field*, Figure 5:

Delta Field 502, and Column 7, Line 43 through Column 8 Line 20; and Chen, Column

8 Line Column 9 Line 14; Note that the method of Barrick in view of Chen repeats the

whole process and generate a second HTML based request OR, on the way a long the

chain of nodes, more and more HTML-based requests can be generated which would

included times of generation, arrival times, departure times, and time of display for the

previously generated HTML request (i.e., first HTML based request) within a request-

response cycle corresponding to the second HTML-based request; and Dutta,

Paragraph 0047, i.e., *the browser maintains a list of all the screen image that have been*

captured within a configurable duration of time, and the time that the screen image was

captured).

As such, Barrick, Chen and Dutta in combination teaches each and every

element the amended claim 1.

The rest of Applicant's arguments regarding dependent claims of claim 1 and 13

depends on the above argument regarding claim 1 and are invalid because the

combination of Barrick, Chen, and Dutta in combination teaches each and every

limitation of claim 1 and, on the same basis, claim 13.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be
> patented and the prior art are such that the subject matter as a whole would have been obvious
> at the time the invention was made to a person having ordinary skill in the art to which said
> subject matter pertains. Patentability shall not be negatived by the manner in which the invention
> was made.

5.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

6.   Claims 1, 5, 13, and 18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Barrick Jr. et al. (hereinafter "Barrick") (U.S. Patent Number

6625647) in view of Chen et al. (hereinafter "Chen") (U.S. Patent Number 5793976) and

further in view of Dutta et al., (hereinafter "Dutta") (U.S. Patent Application Publication

Number 2002/0161794).

Referring to claim 1, Barrick Jr. et al. is directed to a system and method for

assembling timing data in a multi-layer server environment, comprising:

"generating a first HTML request" (Barrick, Column 4, Line 41-65);

"depositing a time of generation of the first HTML based request in one or more

hidden data fields associated with the first HTML based request" " (Barrick, Column 9

Line 1-10 *Delta Field*, Figure 5: *Delta Field 502,* and Column 7, Line 43 through Column

8 Line 20);

"forwarding the HTML based request to one or more servers" (Barrick, Column 7

Lines 15-22);

"generating an HTML based response" (Barrick, Column 7 Lines56-66);

"transferring" and "forwarding" (Barrick, Column 7 Lines 56-66)

"receiving the HTML based response to a browser for displaying the HTML

based response, the browser operable to store a time of arrival" (Barrick, Column 8

Lines 33-38, i.e., *By controlling the sending of the HTTP GET request for the desired*

HTML, page, the browser agent is able to record the time the request was send and

monitor the receiving of the page to determine the download time);

"storing the times of generation, arrival times, departure times, and the time of

display in the hidden fields in the HTML based response in a database within a request-

response cycle corresponding to the second HTML based request" (Barrick repeatedly

teaches storing request-response results in his specification. In Column 1 Lines 35-44,

Barrick recites *a network of special machines that are programmed to connect to*

different web sites as clients and **evaluate the performance of the connection.** *The*

special machines that make up the network can then **store or report their connection**

results; Barrick Column 2 Lines 10-18, i.e., *The data is sent from the user to a relay*

server that preferably combines the performance data with geographical information

relating to the user. **The data can then be combined with data obtained from other**

users and stored in a central database for processing*;* Barrick Column 11 Lines 1-6,

i.e., *Download time, or any other performance parameter that is desired may be*

measured using an agent that monitors information as it is transmitted between parties.

In one embodiment, the network is the Internet and the information is transmitted in the

form of Web pages. Results are preferably sent to a relay server for formatting before

being stored in a database server. In some embodiments, results are sent directly to a

database server; also note Column 5 Line 1-10 and Column 10 Line 52-58 of Barrick

reference; in addition, Barrick teaches the storing of the arrival times and departure

times in the hidden data fields in the second HTML based response in a database

(Barrick Column 4 Line 66 through Column 5 Line 12, i.e., *database server 112;*

Barrick, Column 5 Line 1-10 and Column 10 Line 52-58); and Barrick, Column 4, Line

41-65; Barrick, Column 9 Line 1-10 *Delta Field*, Figure 5: *Delta Field 502,* and Column

7, Line 43 through Column 8 Line 20);

Barrick Jr. et al. teaches that the response is sent back from the server to the

browser agent, located at the client machine, which calculates the round-trip time based

on the request time and arrival time at the browser (Barrick Jr. et al., Column 7 56-66).

Barrick Jr. et al. does not explicitly disclose the limitations:

""the arrival times", "departure time", and "transferring the arrival times, the time

of generation of the HTML based request, and the departure times to the one or more

hidden data fields associated with the HTML based response"; "a time of display for the

HTML based response"; and "within a request-response cycle corresponding to the

second HTML based request".

Chen teaches the limitations:

"the arrival times", and "departure time" (Chen, Figure 2 and Column 7 Line 50

through Column 8 Line 54), and "transferring the arrival times, the time of generation of

the (HTML based) request, and the departure times to the one or more hidden data

fields associated with the (HTML based) response" (Chen, Column 6 Line 55 through

Column 7 Line 5; and Column 8 Line Column 9 Line 14, i.e., *A particular advantage of*

the node-by-node delay measurement packet is that it allows the computation and relay

of instantaneous delay information .... Alternatively, additional time stamps can be

sued for each node, allowing the switch to merely record in one timestamp field the time

that the packet arrives, and then record the time the packet leaves into another

timestamp field);

Chen teaches a method and system for monitoring of network performance,

wherein a special class of packet called *management packet* (Chen, Column 6 Line 55-

60) is defined which includes an information field which is modified by all the nodes

along a virtual connection (Chen Column 6 Line 55 through Column 7 Line 5; and

Column 8 Line Column 9 Line 14, i.e., *A particular advantage of the node-by-node delay*

measurement packet is that it allows the computation and relay of instantaneous delay

information .... Alternatively, additional time stamps can be sued for each node,

allowing the switch to merely record in one timestamp field the time that the packet

arrives, and then record the time the packet leaves into another timestamp field). Said

management packets are used to collect performance parameters along any virtual

connection, including packet delays at each intermediate node where arrival time and

departure time at each node are recorded in multiple timestamp fields in the packet,

which is used to calculate delay time at each and recorded into the packet (Chen et al.,

Figure 2 and Column 7 Line 50 through Column 8 Line 54); and

"within a request-response cycle corresponding to the second HTML based

request" (Chen, Column 8 Line Column 9 Line 14; Note that the method of Barrick in

view of Chen repeats the whole process and generate a second HTML based request

OR, on the way a long the chain of nodes, more and more HTML-based requests can

be generated which would included times of generation, arrival times, departure times,

and time of display for the previously generated HTML request (i.e., first HTML based

request) within a request-response cycle corresponding to the second HTML-based

request).

Dutta teaches the limitation: "a time of display for the HTML based response"

(Paragraph 0047, i.e., *the browser maintains a list of all the screen image that have*

been captured within a configurable duration of time, and the time that the screen image

was captured).

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art to add the feature of acquiring arrival and depart time at each

node (servers or switches or routers), as taught by Chen, and the feature of storing a

time of display, as taught by Dutta, to the system and method taught by Barrick et al. so

that the combined method of Barrick in view of Chen teaches the limitations:

"generating a first HTML based request" (Barrick, Column 4, Line 41-65);

"depositing a time of generation of the first HTML based request in one or more

hidden data fields associated with the first HTML request" (Barrick, Column 7 Lines56-

66);

"forwarding the first HTML based request to one more servers that each deposit

an arrival time and a departure time for the first HTML based request in the one or more

hidden data fields associated with the first HTML based request" (Barrick, Column 7

Lines 15-22; and Chen, Column 6 Line 55 through Column 7 Line 5; and Column 8 Line

Column 9 Line 14);

"generating an HTML based response in response to receiving the first HTML

based request" (Barrick, Column 7 Lines56-66);

"depositing a time of generation of the HTML based response in one or more

hidden data fields associated with the HTML based response" (Barrick, Column 7

Lines56-66; Chen, Column 8 Line Column 9 Line 14; Note that in the chain of nodes in

the method of Chen, a node's response becomes a request to next node in the chain;

See Figures 3, 4, and 5);

"transferring the arrival times, the time of generation of the HTML based request,

and the departure times to the one or more hidden data fields associated with the HTML

based response" (Barrick, Column 9 Line 1-10 *Delta Field*, Figure 5: *Delta Field 502*,

and Column 7, Line 43 through Column 8 Line 20; and Chen, Column 8 Line Column 9

Line 14, i.e., *A particular advantage of the node-by-node delay measurement packet is*

that it allows the computation and relay of instantaneous delay information.......

Alternatively, additional time stamps can be sued for each node, allowing the switch to

merely record in one timestamp field the time that the packet arrives, and then record

the time the packet leaves into another timestamp field; Note that, in Chen's method,

arrival times and departure times are recorded into multiple timestamp fields at each

node, thus transferring/storing the arrival times, the times of generation of the request,

and the departure times. At the beginning of this chain, time of generation is recorded.

After that, time of arrival and departure are recorded all the way along the chain);

"forwarding the HTML based response to one or more servers each deposit an

arrival time and a departure time in the one more hidden data fields associated with

HTMO based response" (Barrick, Column 9 Line 1-10 *Delta Field*, Figure 5: *Delta Field*

502, and Column 7, Line 43 through Column 8 Line 20; and Chen, Column 8 Line

Column 9 Line 14,);

"receiving the HTML based response to a browser for displaying the HTML

based response, the browser operable to store a time of arrival and a time of display for

the HTML based response" (Barrick, Column 8 Lines 33-38, i.e., *By controlling the*

sending of the HTTP GET request for the desired HTML, page, the browser agent is

able to record the time the request was send and monitor the receiving of the page to

determine the download time; and Dutta Paragraph 0047, i.e., *the browser maintains a*

list of all the screen image that have been captured within a configurable duration of

time, and the time that the screen image was captured);

"generating a second HTML based request, the second based request including

the times of generation, arrival times, departure times, and time of display for the first

HTML based request and HTML based response in one or more hidden data fields associated with the second HTML based request" (Barrick, Column 4, Line 41-65; Barrick, Column 9 Line 1-10 *Delta Field*, Figure 5: *Delta Field 502,* and Column 7, Line 43 through Column 8 Line 20; and Chen, Column 8 Line Column 9 Line 14; Note that the method of Barrick in view of Chen can repeat the whole process and generate a second HTML based request OR, on the way a long the chain of nodes, more and more HTML-based requests can be generated which would included times of generation, arrival times, departure times, and time of display for the previously generated HTML request (i.e., first HTML based request). Running software processes repeatedly in a loop is notoriously well known in the art); and

"*storing the times of generation, arrival times, departure times, and the time of display in the hidden fields in the HTML based response in a database within a request-response cycle corresponding to the second HTML based request*" (Barrick repeatedly teaches storing request-response results in his specification. In Column 1 Lines 35-44, Barrick recites *a network of special machines that are programmed to connect to different web sites as clients and **evaluate the performance of the connection**. The special machines that make up the network can then **store or report their connection results;** Barrick Column 2 Lines 10-18, i.e., The data is sent from the user to a relay server that preferably combines the performance data with geographical information relating to the user. **The data can then be combined with data obtained from other users and stored in a central database for processing;** Barrick Column 11 Lines 1-6, i.e., Download time, or any other performance parameter that is desired may be*

measured using an agent that monitors information as it is transmitted between parties.

In one embodiment, the network is the Internet and the information is transmitted in the

form of Web pages. Results are preferably sent to a relay server for formatting before

being stored in a database server. In some embodiments, results are sent directly to a

database server; also note Column 5 Line 1-10 and Column 10 Line 52-58 of Barrick

reference; in addition, Barrick teaches the storing of the arrival times and departure

times in the hidden data fields in the second HTML based response in a database

(Barrick Column 4 Line 66 through Column 5 Line 12, i.e., *database server 112;*

Barrick, Column 5 Line 1-10 and Column 10 Line 52-58); and Barrick, Column 4, Line

41-65; Barrick, Column 9 Line 1-10 *Delta Field,* Figure 5: *Delta Field 502,* and Column

7, Line 43 through Column 8 Line 20; and Chen, Column 8 Line Column 9 Line 14;

Note that the method of Barrick in view of Chen repeats the whole process and

generate a second HTML based request OR, on the way a long the chain of nodes,

more and more HTML-based requests can be generated which would included times of

generation, arrival times, departure times, and time of display for the previously

generated HTML request (i.e., first HTML based request) within a request-response

cycle corresponding to the second HTML-based request; and Dutta, Paragraph 0047,

i.e., *the browser maintains a list of all the screen image that have been captured within*

a configurable duration of time, and the time that the screen image was captured).

One would have been motivated to do so in order that *the information field of a*

management cell is modified by all the network nodes along a virtual connection, not

just by the virtual end point" (Chen et al., Column 6 Line 65 through Column 7 Line 5)

and also because recording the time of display, duration of execution/delay, time of

generation, time of arrival, and time of departure are well known in the art of network

performance measuring as well as in the art of web-based advertisement.

Referring to claim 5, Chen teaches the limitation:

"at least one of the arrival time and the departure time is based on a local time

associated with one or more servers" (Chen, Column 7 Line 17-27, i.e., *local*

measurement of packet delay).

Claim 13 is rejected on the same basis as claim 1.

Referring to claim 18, Barrick is directed to the limitation:

"at least one first server is a web server" (Column 4 Line 58-60 , i.e., *web server*

104, and Figure 1C: *web server 104*).

7.   Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrick in

view of Chen and further in view of Dutta and further in view of Fish et al. (hereinafter

"Fish") (U.S. Patent Application Publication Number 2004/0111394).

Referring to claim 2, Barrick in view of Chen does not explicitly disclose the

limitation:

"displaying the one or more hidden data fields to a user".

Fish teaches the limitation:

"displaying the one or more hidden data fields to a user" (Paragraph 0023, 034,

and 0038-0039). Fish teaches a method for writing debug data into hidden fields of

HTML or XML document, which hidden until the user makes said hidden fields visible to

be displayed (Paragraph 0023, 034, and 0038-0039).

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art to add the feature of displaying hidden data fields as taught by

Fish et al. to the system and method taught by Barrick Jr. et al. in view of Chen et al. as

applied to claim 1 above so that, the method of claim 1 would further comprise

displaying the one or more hidden data fields to a user. One would have been motivated

to do so in order to simply allow the user analyze the hidden data instantly rather than

storing the hidden data in a database.

8.   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrick in

view of Chen and further in view of Dutta and further in view of Packman et al.,

(hereinafter "Packman") (U.S. Patent Application Publication Number 2003/0225877).

As per claim 4, Barrick in view of Chen and further in view of Dutta teaches the

limitations: "performing analysis on the times of generation, arrival times, departure

times, and time of display in the database to determine a time of delay at each server

and at the browser for the first HTML based request and the HTML based response"

(Barrick, Column 10 Lines 55-61; Barrick, Column 5 Line 1-10 and Column 10 Line 52-

58; Barrick, Column 4, Line 41-65; Barrick, Column 9 Line 1-10 *Delta Field*, Figure 5:

Delta Field 502, and Column 7, Line 43 through Column 8 Line 20; Chen, Column 8

Line Column 9 Line 14; and Dutta, Paragraph 0047).

Barrick in view of Chen and further in view of Dutta does not explicitly teach the

limitation: "the one or more servers including at least one application server and a

database server".

Packman teaches the limitation:

"the one or more servers including at least one application server and a database

server"(Paragraph 0032, i.e., *application servers 340 and/or database servers*).

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art to add the feature of measuring performance of application

servers and/or database servers, as taught by Packman, to the method and system of

Barrick in view of Chen and further of Dutta so that the resultant method would

comprise one or more servers which are application servers and database servers. One

would have been motivated to do so because measuring performance of application

servers and database servers are notoriously well known in the art (Packman

Paragraphs 0004-0005).

9.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrick in

view of Chen and further in view of Engel (hereinafter "Engel") (U.S. Patent Application

'Publication Number 2004/0246996).

Referring to claim 6, Barrick in view of Chen does not explicitly recite the

limitation:

"wherein the local time of at least one of the one or more servers is synchronized

with at least one other of the one or more servers".

Engel teaches the limitation:

"wherein the local time of at least one of the one or more servers is synchronized

with at least one other of the one or more servers" (Paragraph 0017). Engel teaches a

method for time synchronization across communication devices wherein local time of .

one or more nodes is synchronized by exchanging timing packets (Engel Paragraph

0017).

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art to add the feature of synchronizing local time among nodes as

taught by Engel to the system and method taught by Barrick Jr. et al. in view of Chen et

al. as applied to claim 5 so that, in the resultant system and method, local time of at

least one of the one or more servers will be synchronized with at least one other of the

one or more servers. One would have been motivated to do so in order to determine

delay time between nodes (Engel Paragraph 0003).

10.   Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Barrick in view of Chen and further in view of Dutta and further in view of Struble

(U.S. Patent Application Publication Number 2003/0004796).

As per claim 16, Barrick in view of Chan and further in view of Dutta as applied to

claim 1 does not explicitly teach the limitation: "further comprising an internal clock

associated with the at least one first server for keeping local time".

However, Struble teaches the limitation "further comprising an internal clock associated with the at least one first server for keeping local time" (Paragraph 0023, i.e., *The internal clock 216 is configured to maintain current local time).*

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add the feature of using an internal clock to keep local time, as taught by Struble, to the method and system of Barrick in view of Chan and further in view of Dutta so that the resultant method would comprise an internal clock which is associated with at least one server for keeping local time. One would have been motivated to do so in order to have two computers work *relative to current conditions and relative to the current time* (Struble, Paragraph 0023).

As per claim 17, Barrick in view of Chen and further in view of Dutta and further in view of Struble teaches the limitation:

"further comprising an internal clock associated with the at least one second for keeping local time" (Struble, Paragraph 0023, i.e., *The internal clock 216 is configured to maintain current local time).*

11.   Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrick in view of Chen and further in view of Blythe et al. (hereinafter "Blythe") (U.S. Patent Application Publication Number 2004/0139433).

Referring to claim 19, Barrick in view of Chen does not explicitly teach the limitation:

"at least one second server is an application server".

Blythe teaches the limitation:

"at least one second server is an application server" (Paragraph 0036 and 0054).

Blythe et al. teaches the use of application servers in distributed environment (Blythe et

al., Paragraph 0036 and 0054).

At the time the invention was made, it would have been obvious to a

person of ordinary skill in the art to add the use of application servers to the method and

system of Barrick Jr. et al. in view of Chen et al. as applied to claim 13 so that said

system and method would comprise at least one second server which is an application

server. One would have been motivated to do so in order to simply measure

performance metrics of such servers.

Conclusion

12.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Myint whose telephone number is (571) 272-5629. The examiner can normally be reached on 8:30AM-5:30PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-5629.

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Dennis Myint
Examiner
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